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for the purposes of this provision. A brochure illustrating the techniques for making weak links is available from the Regional Administrator, NMFS, Northeast Region upon request.

(iv) *Offshore Trap/Pot Waters Area and Great South Channel Restricted Trap/Pot Area (that overlaps with LMA 2/3 Overlap and LMA 3 only) buoy line weak links.* All buoys, flotation devices, and/or weights (except traps/pots, anchors, and leadline woven into the buoy line), such as surface buoys, high flyers, sub-surface buoys, toggles, window weights, etc., must be attached to the buoy line with a weak link placed as close to each individual buoy, flotation device, and/or weight as operationally feasible that has a maximum breaking strength of up to 1,500 lb (680.4 kg). The weak link must be chosen from the following list approved by NMFS: swivels, plastic weak links, rope of appropriate breaking strength, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator. Weak links must break cleanly leaving behind the bitter end of the line. The bitter end of the line must be free of any knots when the weak link breaks. Splices are not considered to be knots for the purposes of this provision. A brochure illustrating the techniques for making weak links is available from the Regional Administrator, NMFS, Northeast Region upon request.

(ii) *SAM East—(A) Area.* SAM East consists of all waters bounded by straight lines connecting the following points in the order stated:

SAM EAST		
Point	N. Lat.	W. Long.
1E	42°30'	69°45'
2E	42°30'	67°27'
3E	42°09'	67°08.4'
4E	41°00'	69°05'
5E	41°40'	69°45'

(B) *Gear or vessel requirements.* Unless otherwise authorized by the Assistant Administrator, in accordance with paragraph (i)(2) of this section, from May 1 through July 31, no person or vessel may fish with or possess anchored gillnet or trap/pot gear in SAM East unless that gear complies with the gear modifications found in para-

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graphs (i)(3)(i)(B)(1) and (i)(3)(i)(B)(2) of this section, or unless the gear is stowed as specified in § 229.2.

[72 FR 57181, Oct. 5, 2007, as amended at 73 FR 51241, Oct. 2, 2008]

§ 229.33 Harbor Porpoise Take Reduction Plan Regulations—New England.

(a) *Restrictions—(1) Northeast Closure Area—(i) Area restrictions.* From August 15 through September 13, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Northeast Closure Area. This restriction does not apply to vessels fishing with a single pelagic gillnet (as described and used as set forth in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries.* The Northeast Closure Area is bounded by straight lines connecting the following points in the order stated:

NORTHEAST CLOSURE AREA

Point	N. Lat.	W. Long.
NE1	44°27.3'	68°55.0' (ME shoreline)
NE2	43°29.6'	68°55.0'
NE3	44°04.4'	67°48.7'
NE4	44°06.9'	67°52.8'
NE5	44°31.2'	67°02.7'
NE6	44°45.8'	67°02.7' (ME shoreline)

(2) *Mid-Coast Management Area—(i) Area restrictions.* From September 15 through May 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Mid-Coast Management Area, unless the gillnet gear is equipped with pingers in accordance with paragraphs (b) and (c) of this section. This prohibition does not apply to vessels fishing with a single pelagic gillnet (as described and used as set forth in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries.* The Mid-Coast Management Area is the area bounded by straight lines connecting the following points in the order stated:

MID-COAST MANAGEMENT AREA

Point	N. Lat.	W. Long.
MC1	42°30.0'	70°50.1' (MA shoreline)
MC2	42°30.0'	70°15.0'
MC3	42°40.0'	70°15.0'
MC4	42°40.0'	70°00.0'
MC5	43°00.0'	70°00.0'
MC6	43°00.0'	69°30.0'
MC7	43°30.0'	69°30.0'
MC8	43°30.0'	69°00.0'
MC9	44°17.8'	69°00.0' (ME shoreline)

MASSACHUSETTS BAY MANAGEMENT AREA

Point	N. Lat.	W. Long.
MB1	42°30.0'	70°50.1' (MA shoreline)
MB2	42°30.0'	70°30.0'
MB3	42°15.0'	70°30.0'
MB4	42°15.0'	70°00.0'
MB5	42°00.0'	70°00.0'
MB6	42°00.0'	70°01.2' (MA shoreline)
MB7	42°00.0'	70°04.8' (MA shoreline)
MB8	42°00.0'	70°42.2' (MA shoreline)

(iii) *Closing procedures.* According to paragraphs (d)(1), (d)(3), and (d)(4) of this section, NMFS shall close the western portion of the Mid-Coast Management Area (west of 70°15' W. long.) from October 1 through November 30 annually by incorporating it into the Coastal Gulf of Maine Closure Area if, after two full, consecutive management seasons, the average observed bycatch rate of harbor porpoises for the Mid-Coast, Massachusetts Bay, and Stellwagen Bank Management Areas combined exceeds the target harbor porpoise bycatch rate of 0.031 harbor porpoise bycatch rate of 0.031 harbor porpoises per metric tons of landings.

(3) *Massachusetts Bay Management Area—(i) Area restrictions.* From November 1 through February 28/29 and from April 1 through May 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Massachusetts Bay Management Area, unless the gillnet gear is equipped with pingers in accordance with paragraphs (b) and (c) of this section. From March 1 through March 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Massachusetts Bay Management Area. These restrictions do not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries.* The Massachusetts Bay Management Area is bounded by straight lines connecting the following points in the order stated:

(iii) *Closing procedures.* According to paragraphs (d)(1), (d)(3), and (d)(4) of this section, NMFS shall close a portion of the Massachusetts Bay Management Area (north of 42°15' N. lat.) from October 1 through November 30 annually by incorporating it into the Coastal Gulf of Maine Closure Area if, after two full, consecutive management seasons, the average observed bycatch rate of harbor porpoises for the Massachusetts Bay, Mid-Coast, and Stellwagen Bank Management Areas combined exceeds the target harbor porpoise bycatch rate of 0.031 harbor porpoises per metric tons of landings.

(4) *Stellwagen Bank Management Area—(i) Area restrictions.* From November 1 through May 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Stellwagen Bank Management Area, unless the gillnet gear is equipped with pingers in accordance with paragraphs (b) and (c) of this section. This restriction does not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries.* The Stellwagen Bank Management Area is bounded by straight lines connecting the following points in the order stated:

STELLWAGEN BANK MANAGEMENT AREA

Point	N. Lat.	W. Long.
SB1	42°30.0'	70°30.0'
SB2	42°30.0'	70°15.0'
SB3	42°15.0'	70°15.0'
SB4	42°15.0'	70°30.0'
SB1	42°30.0'	70°30.0'

(iii) *Closing procedures.* According to paragraphs (d)(1), (d)(3), and (d)(4) of

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this section, NMFS shall close the Stellwagen Bank Management Area from October 1 through November 30 annually by incorporating it into the Coastal Gulf of Maine Closure Area if, after two full, consecutive management seasons, the average observed bycatch rate of harbor porpoises for the Stellwagen Bank, Mid-Coast, and Massachusetts Bay Management Areas combined exceeds the target harbor porpoise bycatch rate of 0.031 harbor porpoises per metric tons of landings.

(5) *Southern New England Management Area*—(i) *Area restrictions*. From December 1 through May 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Southern New England Management Area, unless the gillnet gear is equipped with pingers in accordance with paragraphs (b) and (c) of this section. This prohibition does not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries*. The Southern New England Management Area is bounded by straight lines connecting the following points in the order stated:

SOUTHERN NEW ENGLAND MANAGEMENT AREA

Point	N. Lat.	W. Long.
SNE1	Western boundary as specified ¹ .	
SNE2	40°00.0'	72°30.0'
SNE3	40°00.0'	69°30.0'
SNE4	42°15.0'	69°30.0'
SNE5	42°15.0'	70°00.0'
SNE6	41°58.3'	70°00.0' (MA shoreline)

¹ Bounded on the west by a line running from the Rhode Island shoreline at 41°18.2' N. lat. and 71°51.5' W. long. (Watch Hill, RI), southwesterly through Fishers Island, NY, to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY; southeasterly to the intersection of the 3-nautical mile line east of Montauk Point; southwesterly along the 3-nautical mile line to the intersection of 72°30.0' W. long.

(iii) *Closing procedures*. According to paragraphs (d)(2), (d)(3), and (d)(4) of this section, NMFS shall close two areas (Cape Cod South Expansion Closure Area and Eastern Cape Cod Closure Area) within the Southern New England Management Area from February 1 through April 30 annually if, after two full, consecutive management seasons, the average observed bycatch rate of harbor porpoises for the

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Southern New England Management Area exceeds the target harbor porpoise bycatch rate of 0.023 harbor porpoises per metric tons of landings.

(6) *Cape Cod South Closure Area*—(i) *Area restrictions*. From March 1 through March 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Cape Cod South Closure Area. This prohibition does not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries*. The Cape Cod South Closure Area is bounded by straight lines connecting the following points in the order stated:

CAPE COD SOUTH CLOSURE AREA

Point	N. Lat.	W. Long.
CCS1	41°19.6'	71°45.0' (RI shoreline)
CCS2	40°40.0'	71°45.0'
CCS3	40°40.0'	70°30.0'
CCS4	41°20.9'	70°30.0'
CCS5	41°23.1'	70°30.0'
CCS6	41°33.1'	70°30.0' (MA shoreline)

(iii) *Closing procedures*. According to paragraphs (d)(2), (d)(3), and (d)(4) of this section, NMFS shall close the Cape Cod South Closure Area and an area to its south (Cape Cod South Expansion Closure Area) from February 1 through April 30 annually if, after two full, consecutive management seasons, the average observed bycatch rate of harbor porpoises for the Southern New England Management Area exceeds the target harbor porpoise bycatch rate of 0.023 harbor porpoises per metric tons of landings.

(7) *Offshore Management Area*—(i) *Area restrictions*. From November 1 through May 31, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Offshore Management Area, unless the gillnet gear is equipped with pingers in accordance with paragraphs (b) and (c) of this section. This restriction does

not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries.* The Offshore Management Area is bounded by straight lines connecting the following points in the order stated:

OFFSHORE MANAGEMENT AREA		
Point	N. Lat.	W. Long.
OFS1	42°50.0'	69°30.0'
OFS2	43°10.0'	69°10.0'
OFS3	43°10.0'	67°40.0'
OFS4	43°05.8'	67°40.0' (EEZ bound- ary)
OFS5	42°53.1'	67°44.5' (EEZ bound- ary)
OFS6	42°47.3'	67°40.0' (EEZ bound- ary)
OFS7	42°10.0'	67°40.0'
OFS8	42°10.0'	69°30.0'
OFS1	42°50.0'	69°30.0'

(8) *Cashes Ledge Closure Area—(i) Area restrictions.* During the month of February, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Cashes Ledge Closure Area. This restriction does not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title).

(ii) *Area boundaries.* The Cashes Ledge Closure Area is bounded by straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA		
Point	N. Lat.	W. Long.
CL1	42°30.0'	69°00.0'
CL2	42°30.0'	68°30.0'
CL3	43°00.0'	68°30.0'
CL4	43°00.0'	69°00.0'
CL1	42°30.0'	69°00.0'

(b) *Pingers—(1) Pinger specifications.* For the purposes of this subpart, a pinger is an acoustic deterrent device which, when immersed in water, broadcasts a 10 kHz (plus or minus 2 kHz) sound at 132 dB (plus or minus 4 dB) re 1 micropascal at 1 m, lasting 300 milliseconds (plus or minus 15 milliseconds), and repeating every 4 seconds (plus or minus 0.2 seconds).

(2) *Pinger attachment.* An operating and functional pinger must be attached at each end of a string of gillnets and

at the bridle of every net, or every 300 feet (91.4 m or 50 fathoms), whichever is closer.

(c) *Pinger training and authorization.* The operator of a vessel may not fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies in closed areas where pingers are required as specified under paragraph (b) of this section, unless the operator has satisfactorily received pinger training and possesses and retains on board the vessel a valid pinger training authorization issued by NMFS.

(d) *Annual review for consequence area actions—(1) Coastal Gulf of Maine Closure Area—(i) Establishment.* If, after two full, consecutive management seasons, the calculated average observed bycatch rate of the Mid-Coast, Massachusetts Bay, and Stellwagen Bank Management Areas exceeds the target bycatch rate of 0.031 harbor porpoises per metric tons of landings, the Coastal Gulf of Maine Closure Area shall be established.

(ii) *Restrictions.* From October 1 through November 30, it will be prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Coastal Gulf of Maine Closure Area. This prohibition will not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title). When the area is open to fishing, the requirements of the Mid-Coast (as described in paragraph (a)(2) of this section), Massachusetts Bay (as described in paragraph (a)(3) of this section), and Stellwagen Bank (as described in paragraph (a)(4) of this section) Management Areas will remain in effect.

(iii) *Area boundaries.* The Coastal Gulf of Maine Closure Area is bounded by straight lines connecting the following points in the order stated:

COASTAL GULF OF MAINE CLOSURE AREA		
Point	N. Lat.	W. Long.
CGM1	43°33.0'	70°15.0' (ME shore- line)
CGM2	42°15.0'	70°15.0'

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COASTAL GULF OF MAINE CLOSURE AREA—
Continued

Point	N. Lat.	W. Long.
CGM3	42°15.0'	70°46.0' (MA shoreline)

(2) *Cape Cod South Expansion and Eastern Cape Cod Closure Areas*—(i) *Establishment*. If, after two full, consecutive management seasons, the calculated average observed bycatch rate of the Southern New England Management Area exceeds the target bycatch rate of 0.023 harbor porpoises per metric tons of landings, the Cape Cod South Expansion Closure Area and the Eastern Cape Cod Closure Area shall be established.

(ii) *Restrictions*. From February 1 through April 30, it will be prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with § 229.2, or fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from the Cape Cod South Expansion Closure Area and the Eastern Cape Cod Closure Area. This prohibition will not apply to vessels fishing with a single pelagic gillnet (as described in § 648.81(f)(2)(ii) of this title). When the areas are open to fishing, the requirements of the Southern New England Management Area, as described in paragraph (a)(5) of this section, will remain in effect.

(iii) *Area boundaries*. (A) The Cape Cod South Expansion Closure Area is bounded by straight lines connecting the following points in the order stated:

CAPE COD SOUTH EXPANSION CLOSURE AREA

Point	N. Lat.	W. Long.
CCSE1	41°19.6'	71°45.0' (RI shoreline)
CCSE2	40°00.0'	71°45.0'
CCSE3	40°00.0'	70°00.0'
CCSE4	40°30.0'	70°00.0'
CCSE5	40°30.0'	70°30.0'
CCSE6	41°20.9'	70°30.0'
CCSE7	41°23.1'	70°30.0'
CCSE8	41°33.1'	70°30.0' (MA shoreline)

(B) The Eastern Cape Cod Closure Area is bounded by straight lines connecting the following points in the order stated:

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EASTERN CAPE COD CLOSURE AREA

Point	N. Lat.	W. Long.
ECC1	41°58.3'	70°00.0' (MA shoreline)
ECC2	42°15.0'	70°00.0'
ECC3	42°15.0'	69°30.0'
ECC4	41°40.0'	69°30.0'
ECC5	41°40.0'	69°56.8' (MA shoreline)

(3) *Notification*. Upon determining that establishing a consequence closure area as described in paragraphs (d)(1) and (d)(2) of this section is necessary, NMFS will notify, in advance of the closure, the Harbor Porpoise Take Reduction Team and gillnet permit holders through mail notification. NMFS will also publish notification in the FEDERAL REGISTER and post information on the Harbor Porpoise Take Reduction Plan Web site related to the establishment of the closure area(s).

(4) If any or all of the closure areas discussed in paragraphs (d)(1) and (d)(2) are implemented, NMFS will monitor harbor porpoise bycatch rates throughout the New England region. The provisions set forth in paragraphs (d)(1) and (d)(2) shall remain in effect each year after implementation until bycatch levels approach a zero mortality and serious injury rate (ZMRG), or until NMFS, in collaboration with the Harbor Porpoise Take Reduction Team, develops and implements new measures.

(e) *Research permits*. An exemption to the requirements set forth in this section may be acquired for the purposes of conducting scientific or gear research within the restricted areas described in this section. A scientific research permit must be acquired through NMFS's existing permit application process, administered by NMFS.

(f) *Other special measures*. The Assistant Administrator may revise the requirements of this section through notification published in the FEDERAL REGISTER if:

(1) NMFS determines that pinger operating effectiveness in the commercial gillnet fishery is inadequate to reduce bycatch below the stock's PBR level; or

(2) NMFS determines that the boundary or timing of a closed area is inappropriate, or that gear modifications

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(including pingers) are not reducing by-catch to below the PBR level.

[75 FR 7396, Feb. 19, 2010]

§ 229.34 Harbor Porpoise Take Reduction Plan Regulations—Mid-Atlantic.

(a)(1) *Regulated waters.* The regulations in this section apply to all waters in the Mid-Atlantic bounded on the east by 72°30' W. long. at the southern coast of Long Island, NY at 40°50.1' N. lat. and on the south by the NC/SC border (33°51.1' N. lat.), except for the areas exempted in paragraph (a)(2) of this section.

(2) *Exempted waters.* The regulations within this section are not applicable to waters landward of the first bridge over any embayment, harbor, or inlet, or to waters landward of the following lines:

New York

- 40°45.70' N., 72°45.15' W. to 40°45.72' N., 72°45.30' W. (Moriches Bay Inlet)
- 40°37.32' N., 73°18.40' W. to 40°38.00' N., 73°18.56' W. (Fire Island Inlet)
- 40°34.40' N., 73°34.55' W. to 40°35.08' N., 73°35.22' W. (Jones Inlet)

New Jersey/Delaware

- 39°45.90' N., 74°05.90' W. to 39°45.15' N., 74°06.20' W. (Barnegat Inlet)
- 39°30.70' N., 74°16.70' W. to 39°26.30' N., 74°19.75' W. (Beach Haven to Brigantine Inlet)
- 38°56.20' N., 74°51.70' W. to 38°56.20' N., 74°51.90' W. (Cape May Inlet)

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. (Delaware Bay)

Maryland/Virginia

- 38°19.48' N., 75°05.10' W. to 38°19.35' N., 75°05.25' W. (Ocean City Inlet)

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. (Chincoteague to Ship Shoal Inlet)

- 37°11.10' N., 75°49.30' W. to 37°10.65' N., 75°49.60' W. (Little Inlet)

37°07.00' N., 75°53.75' W. to 37°05.30' N., 75°56.' W. (Smith Island Inlet)

North Carolina

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80.

(b) *Restrictions*—(1) *Waters off New Jersey Management Area.* The Waters off New Jersey Management Area is bounded by straight lines connecting the following points in the order stated:

WATERS OFF NEW JERSEY MANAGEMENT AREA

Point	N. Lat.	W. Long.
WNJ1	40°50.1'	72°30.0' (NY shoreline)
WNJ2	38°47.0'	72°30.0'
WNJ3	38°47.0'	75°05.0' (DE shoreline)

(i) *Closure.* From April 1 through April 20, it is prohibited to fish with, set, haul back, possess on board a vessel unless stowed in accordance with §229.2, or fail to remove any large mesh gillnet gear from the Waters off New Jersey Management Area.

(ii) *Gear limitations and requirements*—*large mesh gillnet gear.* From January 1 through April 30, except during April 1 through April 20, as described in paragraph (b)(1)(i) of this section, no person may fish with, set, haul back, possess on board a vessel unless stowed in accordance with §229.2, or fail to remove any large mesh gillnet gear in the Waters off New Jersey Management Area, unless the gear complies with the specified gear characteristics described in paragraphs (b)(1)(ii)(A) through (F) of this section. During this period, no vessel may enter or remain in the Waters off New Jersey Management Area with large mesh gillnet gear on board, unless the gear complies with the specified gear characteristics described in paragraphs (b)(1)(ii)(A) through (F) of this section, or is stowed in accordance with §229.2. In order to comply with these specified gear characteristics, the gear must have all the following characteristics: